
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2019 - 2020 Regular

Bill No: AB 428 **Hearing Date:** June 12, 2019
Author: Medina, et al.
Version: February 7, 2019
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: Special education funding.

SUMMARY

This bill requires that special education funding rates to be equalized to the 95th percentile after the Local Control Funding Formula (LCFF) is fully funded and makes other various special education funding changes.

BACKGROUND

Existing law:

- 1) Establishes, commencing with the 1998-99 fiscal year, a “census based” funding system for the allocation of state special education funds, providing most funding appropriated for support of special education programs on the basis of the average daily attendance (ADA) of special education students enrolled in the prior year, multiplied by a funding rate unique to each Special Education Local Plan Areas (SELPA).
- 2) Establishes a calculation for determining a statewide target rate of funding used for the purpose of calculating the funding rate of ADA growth in each SELPA.
- 3) Requires, in specified fiscal years, equalization adjustments to be made to increase the funding rates of SELPAs with rates below the 90th percentile.
- 4) Establishes an extraordinary cost pool for the extraordinary costs associated with single placements in nonpublic, nonsectarian schools.
- 5) Establishes a low incidence disability fund for costs associated with the education of students who are visually impaired, hearing impaired, and severely orthopedically impaired, and any combination thereof.
- 6) Requires, through state and federal law, that children with exceptional needs between the ages of three and five be provided with a free and appropriate education.

ANALYSIS

This bill:

- 1) States the intent of the Legislature that the requirements of the act be implemented over the course of five years.
- 2) Requires that, in the first fiscal year following the full funding of the Local Control Funding Formula (LCFF), the Superintendent of Public Instruction (SPI) compute an equalization adjustment for each Special Education Local Plan Areas (SELPA), and sets the target equalization rate at 95th percentile of statewide funding rates.
- 3) Specifies the method for calculating this equalization adjustment as follows:
 - a) Multiply the amount computed for each SELPA by the average daily attendance (ADA) used to calculate its funding for the year in which an appropriation is made for equalization.
 - b) Divide the amount appropriated for purposes an equalization adjustment by the statewide sum of the amount computed above.
 - c) Multiply the amount computed for the SELPA by the amount computed above.
- 4) Requires the SPI, in each year following an equalization adjustment, to perform the following computations to determine the statewide target amount per unit of ADA in order to determine the inflation adjustment and growth adjustment:
 - a) Total the amount of funding computed for each SELPA.
 - b) Total the number of units of ADA reported for each SELPA for the fiscal year preceding the equalization appropriation.
 - c) Divide the total funding by the total ADA .
- 5) Establishes a funding mechanism for providing funding for preschool-age students in the AB 602 formula, by requiring that, for the purpose of providing funding for preschool-aged children with special needs, commencing with the first fiscal year after the full funding of LCFF, a SELPA that reports serving children three or four years of age who meet the definition in Section 56026, except for a special education local plan area that, as of December 1, 2018, reported exclusively serving children three or four years of age in transitional kindergarten or kindergarten, for purposes of calculating units of ADA, the SELPA count three times all units of ADA generated by children enrolled in kindergarten, less those children eligible for transitional kindergarten.
- 6) Requires that any growth in ADA generated by the preschool adjustment be funded at the prevailing statewide target rate.
- 7) Establishes a high cost service allowance for the purpose of providing supplemental funding to a SELPA on the basis of the number of pupils with severe disabilities, defined as autism, blindness, deafness, severe orthopedic

impairments, serious emotional disturbances, severe intellectual disability, both deafness and blindness, traumatic brain injury, and multiple disabilities.

- 8) For the 2019-20 fiscal year, requires the Superintendent of Public Instruction (SPI) to make the following computations to determine the high cost service allowance for each SELPA:
 - a) From the December 2018 pupil count, the number of pupils who have a severe disability, defined as: autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe intellectual disability, and those individuals who would have been eligible for enrollment in a development center for handicapped pupils, plus both deafness and blindness, traumatic brain injury, or multiple disabilities.
 - b) Multiply this amount by the statewide target amount per unit of average daily attendance (ADA) for the 2019–20 fiscal year.
- 9) Requires the SPI, for the 2020-21 fiscal year and each fiscal year thereafter, to make the same adjustment as required for the prior year, using a pupil count from December of the prior year of students who have a severe disability, as defined above.
- 10) Changes the definition of ADA for the purpose of calculating growth funding, to mean the total number of units of ADA of the districts or county offices which make up the SELPA, for the current or prior school year, whichever is greater, thereby allowing declining enrollment adjustments to be made on the basis of changes in district, rather than SELPA enrollment.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “For decades the state has underinvested in its special education system, allowing unequal rates to disadvantaged students in some regions for no reason, providing disincentives to invest early in the education of our students - when the return is greatest - and failing to provide additional resources to support students who require a higher level of service to succeed.

Multiple reports over the years have argued for targeted investments to fix our special education finance system and better support our special education students. One such report, the 2015 report of the California Special Education Task Force (convened by the State Board of Education, the Superintendent of Public Instruction, and the Commission on Teacher Credentialing) set out a goal of one coherent system that serves all students, with a vision that special education students would be viewed as general education students first. The Task Force report acknowledged the significant special education fiscal challenges faced by schools and recommended a number of steps to improve the system and student outcomes. This bill addresses several of their recommendations.

AB 428 would equalize base AB 602 funding rates to the 95th percentile, establish a funding formula within AB 602 for programs serving preschoolers with disabilities, create a high cost service allowance to provide additional funding for students with significant high-cost disabilities, allow school districts to calculate a declining enrollment adjustment based on individual school district average daily attendance (ADA) instead of aggregated Special Education Local Plan Areas (SELPA) ADA.

In these ways AB 428 would remedy several long standing deficiencies in our special education finance system, providing resources to help our students with disabilities reach their full potential.”

- 2) ***Special education funding history.*** In 1975, California developed its Master Plan for Special Education, which expanded the types of services schools were required to provide students with disabilities. In that same year, Congress passed the Individuals with Disabilities Education Act. The Master Plan also required all districts to join Special Education Local Plan Areas responsible for coordinating special education among its member districts. Lastly, the Master Plan introduced a simplified funding system (J-50 system) based on the following three types of special education services: (1) special day classes attended only by students with disabilities, (2) resource specialists providing pull-out instructional support, and (3) designated instruction and services supplementing general instruction.

Under the J-50 funding system, schools received one rate for each special day class they operated, another rate for each resource specialist, and another for each employee providing designated instruction and services. Each Special Education Local Plan Areas (SELPA's) rates were set based on a statewide survey of special education costs in 1979-80, which no longer reflected the full range of services offered by the mid-1990s. In response, the state adopted a new special education system based on overall attendance (AB 602 system) which is still used today.

- 3) ***Current special education funding system.*** Since 1998, the state has funded SELPAs based on their overall student attendance, regardless of how many students they serve in special education, the specific disabilities of those students, or what types of services those students receive. This census-based approach was intended to eliminate the complexity and perverse incentives of the former J-50 system.

When the AB 602 system was first introduced, the state set each SELPA's per-student funding rate equal to its total funding in the last year under the J-50 system divided by its total student population in that year. Because funding rates varied notably under the J-50 system, the new rates established under AB 602 also varied notably. The state established a statewide target rate equal to the average special education per-student funding rate and allocated funding in the late 1990s and early 2000s to bring SELPAs below the statewide target rate up to the target. However, the state has provided no additional funding to equalize per-student rates since 2000-01.

Although funding rates remain unequal, AB 602 has largely realized the state's original goals of simplifying funding and encouraging instructional innovation. Regarding simplicity, schools no longer complete complicated paperwork based on intricate formulas before they receive state funding. Regarding innovation, the proportion of students with severe disabilities being served in mainstream settings has doubled since the late 1990's (from 15 to 30 percent).

- 4) ***Low incidence disabilities.*** State law defines students who are deaf, hard of hearing, visually impaired, or orthopedically impaired as having "low-incidence" disabilities. Students with these disabilities typically account for roughly 0.5 percent of all K-12 students. Students with low-incidence disabilities often require relatively expensive support. To help Special Education Local Plan Areas (SELPA) cover the higher costs of serving these students, the state has allocated some funding based on the number of students with low-incidence disabilities since 1985-86. These funds can be spent on either materials or services for these students.

This bill proposes a new high cost service allowance for the purpose of providing supplemental funding to SELPAs based on the number of pupils with severe disabilities, defined as autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe intellectual disability, both deafness and blindness, traumatic brain injury, and multiple disabilities. The allowance would be equal to the average base rate, which is about \$533.

- 5) ***Special education preschool funding.*** State and federal law require local educational agencies (LEAs) to provide services for preschool-age students with exceptional needs. Dedicated support for costs of providing special education services for preschool age students comes from federal and local funds, but funding is not specifically provided for these students through AB 602. According to the author, LEAs spent approximately \$500 million in 2014-15 for special education preschool services.

- 6) ***Declining enrollment adjustment.*** Under current law, special education funding is based on the greater of current or prior year average daily attendance (ADA) at the SELPA-level. To calculate ADA at the SELPA level, ADA from all districts within a SELPA is combined. Critics of this approach argue that combining the ADA of each district within a SELPA, then applying the greater of current or prior year, masks the declining enrollment of certain districts within a SELPA if other districts within the SELPA are growing.

This bill specifies that each district shall first take the greater of current or prior year ADA, then combine the ADA of each district within a SELPA. The effect of this provision could be that when students transfer districts within the same SELPA, the SELPA would be double-funded for the transferring students even though the SELPA would not be serving any more students.

- 7) ***Prior Legislation.***

AB 3136 (O'Donnell, 2018) would have required that special education funding rates be equalized to the 95th percentile after Local Control Funding Formula was

fully funded, created a funding mechanism for state support of special education preschool, established a high cost service allowance to provide supplemental funding on the basis of the number of students with severe disabilities, and changed the calculation of the declining enrollment adjustment that it is based on school district, rather than Special Education Local Plan Area (SELPA), enrollment. The bill died in the Senate Appropriations Committee.

SUPPORT

Coalition For Adequate Funding for Special Education (sponsor)

Alameda County Office of Education

Albany Unified School District

Albany Unified School District Board of Education

Alhambra Unified School District SELPA

Alisal Union School District

Alta Loma School District

Anaheim Union High School District

Antelope Elementary School District

Antelope Valley SELPA

Association of California School Administrators

Atascadero Unified School District

Bellevue Union School District

Benicia Unified School District

Bonsall Unified School District

Brentwood Union School District

Briggs Elementary School District

Burbank Unified School District

Calaveras County Office of Education

Calaveras County SELPA

California Alliance of Child and Family Services

California Association of Private Special Education Schools

California Association of School Business Officials

California Association of School Psychologists

California Association of Suburban School Districts

California Charter Schools Association

California Down Syndrome Advocacy Coalition

California Federation of Teachers

California Retired Teachers Association

California School Boards Association

California School Employees Association

California School Funding Coalition

California State PTA

California Teachers Association

Cal-TASH

Cardiff School District

Carlsbad Unified School District

Carmel Unified School District

Castaic Union School District

Cayucos Elementary School District

Central Unified School District

Central Valley Education Coalition
Centralia School District
Chino Valley Unified School District
Claremont Unified School District
Clovis Unified School District
Columbia Elementary School District
Compton Unified School District
Conejo Valley Unified School District
Contra Costa SELPA
Core at the Camptonville Academy
Cotati-Rohnert Park Unified School District
Covina-Valley Unified School District
Cypress School District
Del Mar Union School District
Dinuba Unified School District
Dixon Unified School District
East San Gabriel Valley SELPA
East Valley SELPA
El Dorado Charter SELPA
El Dorado County SELPA
El Dorado County Superintendent of Schools
El Segundo Unified School District
Elk Grove Unified School District
Encinitas Union School District
Escondido Union High School District
Escondido Union School District
Etiwanda School District
Evergreen Union School District
Fairfield-Suisun Unified School District
Firebaugh-Las Deltas Unified School District
Folsom Cordova Unified School District
Fontana Unified School District
Foothill SELPA
Foothill SELPA Community Advisory Council
Fresno County Charter SELPA
Fresno County SELPA
Fresno County Superintendent of Schools
Fresno Unified School District
Garden Grove Unified School District
Glendale Unified School District
Glendora Unified School District
Golden Valley Unified School District
Greater Anaheim SELPA
Grossmont Union High School District
Gustine Unified School District
Hawthorne School District
Hope School District
Horicon Elementary School District
Hueneme Elementary School District
Irvine Unified School District

Kern County Superintendent of Schools
KIPP Bay Area Public Schools
La Canada Unified School District
Lawndale Elementary School District
Loomis Union School District
Los Angeles County Office of Education
Lucia Mar Unified School District
Madera Unified School District
Magnolia ESD
Martinez Unified School District Office
Mendocino County SELPA
Merced City School District
Merced County Office of Education
Merced County SELPA
Merced River School District
Merced Union High School District
Mid-Alameda County SELPA
Milpitas Unified School District
Mono County Office of Education
Monterey County Office of Education
Monterey County SELPA
Mountain Union Elementary School District
Mt. Diablo Community Advisory Committee for Special Education
NCCSE Community Advisory Committee
Newhall School District
North Coastal Consortium for Special Education
North Inland SELPA
North Orange County Special Education Learning Plan Area
North Region Special Education Plan Area
North Valley School
Northeast Orange County SELPA
Oak Park Unified School District
Oak Run Elementary School District
Ocean View School District
Riverside County Office of Education
Ojai Unified School District
Orange County Department Of Education
Orange Unified School District
Orange Unified School District Special Education Department
Palos Verdes Peninsula Unified School District
Piner-Olivet Union School District
Placer County Office Of Education
Pleasant Valley School District
Rancho Santa Fe School District
Red Bluff Joint Union High School District
Red Bluff Union Elementary School District
Redondo Beach Unified School District
Reeds Creek Elementary School District
Riverside County Public K-12 School District Superintendents
Riverside Unified School District

Rocklin Unified School District
Rocky Point Charter School
Roseville City School District
Sacramento City Unified School District
San Bernardino County District Advocates for Better Schools
San Diego County Office of Education
San Diego South County SELPA
San Francisco Unified School District Advisory Committee For Special Education
San Gabriel Unified School District
San Joaquin County Office of Education
San Luis Coastal Unified School District
San Luis Obispo County SELPA District
San Marcos Unified School District
San Marino Unified School District
San Mateo County SELPA
San Pasqual Union School District
San Ysidro School District
Sanger Unified School District
Santa Barbara County SELPA
Santa Barbara Unified School District
Santa Clarita Valley SELPA
Santa Rosa City Schools
Savanna School District
Sebastopol Independent Charter
Selma Unified School District
SELPA Administrators Of California
Solana Beach School District
Solano County Office of Education
Solano County SELPA
Sonoma County Charter SELPA
Sonoma County SELPA
South Bay IEP & Disability Parents
South Bay Union School District
Southwest SELPA
Stockton Unified School District
Sulphur Springs Union School District
Sulphur Springs Unified School District
Sutter County SELPA
Sutter Union High School
Sweetwater Union High School District
Tehama County Department of Education
Tehama County SELPA
Torrance Unified School District
Travis Unified School District
Tri-City SELPA
Tuolumne County Superintendent of Schools
Tustin Unified School District
Tustin Unified School District SELPA
Twin Rivers Unified School District
Vacaville Unified School District

Valley Center-Pauma Unified School District
Ventura County Office of Education
Ventura County SELPA
Ventura Unified School District
Westside Elementary School District
West Contra Costa Unified School District SELPA
West Covina Unified School District
Wheatland Union High School District
William S. Hart Union High School District
Wright Elementary School District
Yuba County SELPA

OPPOSITION

An individual

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